



Vessel Operators Hazardous Materials Association, Inc.

1118 Bay Road, Lake George, NY 12845-4618 • 518/761-0263 • FAX 518/792-7781

RSPA - 1997-12596-1

QA 177558

March 12, 1997

Mr. Alan I. Roberts
Associate Administrator
Research and Special Programs Administration
United States Department of Transportation
Room 8420 DHM-1
400 Seventh Street, SW
Washington, DC 20590-0001

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The Vessel Operators Hazardous Materials Association (VOHMA) is a United States based international association, with a membership comprised of twenty-nine ocean common carriers, operating under the flags of several nations, with the purpose of serving the domestic and international Trades in matters pertaining to vessel and intermodal transport of hazardous cargoes. The primary goal of VOHMA is to advocate and promote safe, consistent, and cost-beneficial transport of such cargoes based upon discussion and evaluation of issues impacting maritime operations and interconnecting feeder systems, and to develop consensus positions on all issues which may have a significant impact on transportation safety.

Our association is authorized under a United States Federal Maritime Commission agreement and represents the worldwide Trades between the ports of the US, its territories and possessions, and all other countries. VOHMA members currently transport greater than fifty percent (50%) of the ocean freight container moves into the US Trades. Unlike other trade associations with diversified membership, VOHMA represents only ocean common carriers engaged in the transport of dangerous goods. The international registry of our membership provides us with a unique benefit of cultural diversity in topics brought forth for discussion or evaluation. Delegates representing member companies are, for the most part, those individuals with senior level management responsibility for regulatory compliance and risk minimization.

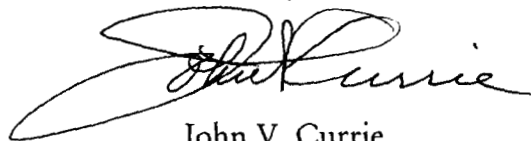
"Committed to the promotion of the safe handling and transportation of hazardous materials."

AADL (America Africa Delmas Line) ♦ American President Lines, Ltd., ♦ Atlantic Container Line ♦ Australia-New Zealand Direct Line ♦ Canada Maritime Agencies Ltd. ♦ Columbus Line USA Inc. ♦ Crowley American Transport, Inc. ♦ Evergreen America Corporation ♦ Farrell Lines, Inc. ♦ Hapag-Lloyd (America) Inc. ♦ Hoegh Lines Agencies, Inc. ♦ Hyundai Merchant Marine (America) Inc. ♦ Independent Container Line, Ltd. ♦ Italian Line (Italia Di Navigazione) ♦ Ivaran Agencies ♦ "K" Line America, Inc. ♦ Maersk Inc. ♦ Mediterranean Shipping Co., ♦ Mitsui O.S.K. Lines (America) Inc. ♦ The National Shipping Co. of Saudia Arabia ♦ NYK Line (North America) Inc. ♦ OOCL (USA) Inc. ♦ P & O Nedlloyd B.V. ♦ P&O Nedlloyd Lines Ltd. ♦ Sea-Land Service, Inc. ♦ DSR Senator Lines (America) Inc. ♦ Tecmarine Lines, Inc. ♦ Wilhelmsen Lines (USA) Inc. ♦ Zim-American Israeli Shipping Co. Inc.

VOHMA is submitting the attached petition for rulemaking to request that the Research and Special Programs Administration (RSPA) of the United States Department of Transportation remove the entry "Engines, internal combustion" from the Hazardous Materials Table in §172.101 and further, that the requirements within Parts 173 and 176 which require special preparation, a shipper's dangerous goods declaration and special stowage considerations for automobiles, equipment, and other machinery and vehicles equipped with an internal combustion engine be removed from Title 49, Code of Federal Regulations. We state in our petition that for the United States to continue to regulate these cargoes while the international regulations applicable to ocean carriage, namely the International Maritime Dangerous Goods Code no longer regulate them, places an additional burden on U.S. flagged vessels and all other carriers who operate within the jurisdiction of the USDOT. VOHMA members feel it is counter-productive to achieving international regulatory harmonization to continue to regulate these cargoes only in domestic carriage. Since January 1, 1997, when the IMDG Code removed these cargoes from the regulations, the position of the USDOT to quasi-regulate the internal combustion engine with broad regulatory exceptions for highway and rail transportation, has resulted in confusion not only on the part of shippers and carriers, but also on the part of enforcement authorities within the United States. We feel that as RSPA currently considers those rulemakings which have been the subject of notice and publication, the time is right to put the domestic regulations in harmony with the international regulations. VOHMA members feel that experience has demonstrated that there have been an insignificant number of incidents involving internal combustion engines to warrant continued regulatory control.

Thank you in advance for your consideration of this significant safety and economic issue and if you should have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "John V. Currie", with a large, stylized flourish extending from the end of the signature.

John V. Currie
VOHMA Technical Consultant
& Administrator

Before the

**RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
of the
UNITED STATES DEPARTMENT OF TRANSPORTATION**

March 12, 1997
WASHINGTON, D.C.

Petition for Rulemaking

**To amend Code of Federal Regulations Title 49
Parts 172, 173, and 176**

**Regulations Concerning Materials Described as
ENGINES, INTERNAL COMBUSTION**

Submitted by the:

VESSEL OPERATORS HAZARDOUS MATERIALS ASSOCIATION
1118 Bay Road
Lake George, NY 12845



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March 12, 1997

Mr. Alan I. Roberts
Associate Administrator
Research and Special Programs Administration
United States Department of Transportation
Room 8420 DHM-1
400 Seventh Street, SW
Washington, DC 20590-0001

Dear Mr. Roberts:

This petition for rulemaking seeks to amend United States Code of Federal Regulations, Title 49, Parts 171 through 177, and more specifically §§172.101, 173.220, and 176.905.

Whereas:

The Research and Special Programs Administration (RSPA) of the USDOT promulgates regulations applicable to the transportation of hazardous materials by all modes of transportation in domestic commerce, including domestic transportation of import and export shipments in international commerce; *and*

Whereas:

Under the provisions of Part 171, import and export shipments of hazardous materials are subject to the conditions and limitations as specified at §171.12, requiring that the importer of the hazardous materials must provide the shipper and the forwarding agent at the place of entry into the United States with timely and complete information as to the requirements of 49 CFR including the provisions of §171.12(b)(3) applicable to materials designated as a hazardous material under Subchapter C of 49 CFR and not subject to the requirements of the IMDG Code; *and*

Whereas:

Since January 1, 1997, internal combustion engines and machinery equipped with an internal combustion engine are no longer subject to the requirements of the IMDG Code for international carriage by sea; *and*

Whereas:

The aforementioned sections of 49 CFR prescribe requirements for classification, preparation, documentation, stowage, markings, labels, and placards applicable to transportation of materials described at §172.101 as “Engines, internal combustion” when transported within the jurisdiction of the USDOT, including carriage for the purpose of import and export to, from, or within the United States; *and*

Whereas:

The regulatory controls in the aforementioned sections are unique to the United States and not in harmony with those recommended by the United Nations Committee of Experts on the Transportation of Dangerous Goods, thereby creating inconsistency between the domestic requirements for transportation and the international requirements for transportation; *and*

Whereas:

Experience has shown that cargoes described as “Engines, internal combustion” have not presented significant safety hazards during transportation to warrant continued regulatory controls and thus to remove regulatory controls will not have a significant negative impact on transportation safety; *and*

Whereas:

To continue to place regulatory controls on vehicles, machinery, or other equipment which originates in the United States from domestic manufacturers and is intended for export, is destined for use in the United States following import, or is transported by a carrier within the jurisdiction of the USDOT, will place unfair competitive burden on US business entities which are not applicable to identical cargoes in foreign jurisdictions; *and*

Whereas:

49 CFR, Subchapter A, Part 106, §106.31, provides a means for interested persons to petition the Associate Administrator for Hazardous Materials Safety to amend or repeal a substantive regulation; *now*

Therefore:

Petitioners hereby seek amendment to Title 49, Code of Federal Regulations, Parts 172, 173, and 176, more specifically §§172.101, 173.220, and 176.905, to remove those materials currently described as “Engines, internal combustion” from the regulatory controls applicable to hazardous materials as codified within 49 CFR.

The following VOHMA members are signatories to this petition:

AADL (America Africa Delmas Line)
American President Lines, Ltd.,
Atlantic Container Line
Australia-New Zealand Direct Line
Canada Maritime Agencies Ltd.
Columbus Line USA Inc.
Crowley American Transport, Inc.
Evergreen America Corporation
Farrell Lines, Inc.
Hapag-Lloyd (America) Inc.
Hoegh Lines Agencies, Inc.
Hyundai Merchant Marine (America) Inc.
Independent Container Line, Ltd.
Italian Line (Italia Di Navigazione)
Ivaran Lines
"K" Line America, Inc.
Mediterranean Shipping Co.,
Mitsui O.S.K. Lines (America) Inc.
The National Shipping Co. of Saudia Arabia
NYK Line (North America) Inc.
OOCL (USA) Inc.
P & O Nedlloyd B.V.
Sea-Land Service, Inc.
DSR Senator Lines (America) Inc.
Tecmarine Lines, Inc.
Wilhelmsen Lines (USA) Inc.
Zim-American Israeli Shipping Co. Inc.